

DEPARTMENT OF HOUSING AND  
COMMUNITY DEVELOPMENT  
Division of Housing Policy Development  
P.O. Box 952053  
Sacramento, California 94252-2053



City of Irvine  
Attn: Mark Asturias, Housing Mgr.  
1 Civic Center Plaza  
P.O. Box 19575  
Irvine, CA 92623-9575

mailed  
1-10-07  
recorded  
1-10-07



DEPARTMENT OF HOUSING AND  
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P.O. Box 952053  
Sacramento, California 94252-2053

Thank you for submitting the annual progress report on  
your jurisdiction's housing element for the period of

FY 2005-2006

The report was received by the department on

December 27, 2006

Submission of the annual progress report satisfies one of  
the eligibility requirements for the Department's Workforce  
Housing Reward Program.

If you have any questions or would like additional  
information on the Workforce Housing Reward Program,  
please contact us at (916) 445-4728 or visit our website at  
[www.hcd.ca.gov/fa/whrp](http://www.hcd.ca.gov/fa/whrp).





Community Development Department

[www.ci.irvine.ca.us](http://www.ci.irvine.ca.us)

City of Irvine, One Civic Center Plaza, P.O. Box 19575, Irvine, California 92623-9575 (949) 724-6000

December 19, 2006

HOUSING POLICY  
DEVELOPMENT, HCD

JAN 3 2007

Ms. Cathy E. Creswell, Deputy Director  
Department of Housing and Community Development  
Division of Housing Policy Development  
1800 Third Street, Suite 430  
P.O. Box 952053  
Sacramento, CA 94252-2643

**Subject: City of Irvine 2006-2007 Housing Element Annual Report**

Dear Ms. Creswell:

Pursuant to Government Code 65400, the City of Irvine is submitting a report on its progress toward meeting its General Plan Housing Element goals. As a Charter City, the City of Irvine is not required to meet this code section. However, the City is providing the enclosed progress report because it agreed to meet this requirement through its Housing Element.

If you should have any comments regarding the progress report, please contact Amy Mullay, Associate Planner at (949) 724-7454 or via e-mail at [amullay@ci.irvine.ca.us](mailto:amullay@ci.irvine.ca.us).

Sincerely,

MARK ASTURIAS  
Housing Manager

Enclosure

cc: Tina Christiansen, Director of Redevelopment  
Barry Curtis, Principal Planner  
Tamara Campbell, Senior Planner  
Amy Mullay, Associate Planner  
Valerie Jacobs, Assistant Planner  
Scott Darrell, Executive Director, Kennedy Commission, 23861 El Toro Road,  
Ste. 401, Lake Forest, CA 92630

# **City of Irvine Housing Element Annual Report Fiscal Year 2006-2007**

## **Introduction**

The City of Irvine adopted its most current Housing Element on November 27, 2001. The State of California Housing and Community Development Department issued its finding of compliance with State housing law on December 4, 2001.

This report will provide an update of the City's progress in implementing its housing element and meeting its share of the regional housing needs in accordance with Government Code Sections 65584 and 65583. In addition, this report describes amendments recently made to the General Plan to further the goals of the Housing Element.

## **Goals and Policies**

The City's Housing Element contains a comprehensive set of goals and policies for the following major components:

- ♦ Housing Needs Assessment – An analysis of the demographic, household, and housing characteristics and trends;
- ♦ Market and Governmental Constraints – A review of potential market, governmental, and other constraints to meeting the identified housing needs;
- ♦ Housing Resources – An evaluation of the land, financial and other resources available to address housing needs; and
- ♦ Housing Objectives and Policies – A set of objectives and policies to address the housing needs.

## **Existing Units**

As of November 30, 2006, the City of Irvine had 81,213 dwelling units, of which 48,270 (59 percent) were constructed as for-sale units, 20,350 (25 percent) were constructed for rental purposes, 889 (one percent) were constructed as mobile homes, 237 (less than one percent), were constructed for seniors, 654 (one percent) were constructed as congregate care units, and 10,813 dorms were constructed (13 percent). In addition, building permits have been issued for 1,176 single-family attached and detached units, 3,147 rental units and 15 senior housing units.

Of the 20,350 rental units, 3,731 (18 percent) are designated affordable to Income Level I/II (extremely low, very low), Level III (low), or Level IV (moderate) households.

### **Implementation of Policy**

The Housing Element outlines objectives to address the housing needs of the City's current and future residents. It thereby provides for safe and decent housing for all economic segments of the community. In order to meet this goal, the Housing Element contains objectives for new residential developments to provide a total of fifteen percent of their units at a price (rent or sales price) affordable to Income Levels I/II, III and IV. These objectives are also outlined in Chapter 2-3 of the Zoning Ordinance, which requires that 15 percent of new housing be affordable, whether or not the City offers incentives.

In the event that financial incentives or subsidies are unavailable, developers may choose from the Menu Option(s) outlined in Chapter 2-3 of the Zoning Ordinance and the Housing Element. The menu options include (1) extending the term of affordability for existing affordable units, (2) payment of in-lieu fees, and (3) dedication of land for affordable housing, among others. In-lieu fees are deposited in the City's Affordable Housing Fund, which are then used to fund affordable housing projects elsewhere in the City.

### **Quantified Objectives**

The City's Housing Element provides a summary of quantified objectives in accordance with the Regional Housing Needs Allocation (RHNA), as determined by the Southern California Association of Governments (SCAG). The RHNA covers the period from January 1, 1998 through June 30, 2005; however, the tables below illustrate the objectives for housing needs by income category and the City's progress in meeting those objectives through October 2006.

<b>NEW UNITS CONSTRUCTION – 1998-2006</b>					
	<b>Very Low</b>	<b>Low</b>	<b>Moderate</b>	<b>Above Moderate</b>	<b>Subtotal</b>
RHNA Objective	1,942	1,186	2,049	5,605	10,782
Units Constructed/Underway	558*	17**	12,813***	22,690	36,078
Remaining Units Balance	1,384	1,169	Satisfied	Satisfied	2,553

\* An additional 335 very low income rental units and 32 very-low income for-sale units have been approved but have yet to be constructed.  
 \*\* An additional 59 low-income for-sale units have been approved but have yet to be constructed.  
 \*\*\* This number remains unchanged from last year with the exception of 28 new rental units since new market rate units no longer meet moderate income requirements.

<b>CONSERVATION OF UNITS – 1998-2006</b>				
	<b>Very Low</b>	<b>Low</b>	<b>Moderate</b>	<b>Subtotal</b>
Housing Element Objective	936	355	238	1,529
Units Preserved	1,091	467	0	1,558
Remaining Units Balance	Satisfied	Satisfied	238	238

<b>REHABILITATION OF UNITS – 1998-2006</b>				
	<b>Very Low</b>	<b>Low</b>	<b>Moderate</b>	<b>Subtotal</b>
Housing Element Objective	0	0	0	0
Units Preserved/Underway	35	0	0	35

The City has seen developed through its assistance and/or inclusionary housing ordinance 575 very low and low income units. The remaining new construction balance of 2,553 very low and low-income units is needed in order for the City to meet its regional housing needs goal. However it should be noted that there are currently 2,128 extremely/very low units and 1,250 low-income units for a total of 3,378 units in the City of Irvine. In addition, there are 353 income restricted moderate units for a total of 3,731 existing affordable units in the City. In order to maintain the affordability of existing units set to expire in the near future, in September 2006 the City entered into a development agreement with The Irvine Company to extend affordability. The terms of the agreement state that 654 very-low units will be extended for a period of 30 years and 15 acres of land will be dedicated to the City for the construction of an estimated 375 very low income units.

With the projects currently under review, recent annexation of acres into the City boundaries, and the proposed development of units in undeveloped areas, the City expects to add several thousand new affordable units over the next few years. The following table summarizes anticipated units in various areas:

<b>Project Area</b>	<b>Anticipated Residential Units</b>	<b><sup>1</sup> Anticipated New/Extended Affordable Units</b>
<b>ANNEXED</b>		
Northern Sphere	19,753	2,964
The Great Park	3,625	544
<b>ENTITLED PROJECTS</b>		
Planning Area 18	750	<sup>2</sup> Per Development Agreement
Planning Area 36	2,927	584
Planning Area 33	3,150	<sup>2</sup> Per Development Agreement
Planning Area 39	3,700	<sup>2</sup> Per Development Agreement
<b>PROPOSED PROJECTS</b>		
Planning Area 36	5,830	875
<b>TOTAL</b>		<b>5,621</b>

<sup>1</sup> All future residential development is subject to the City's 15 percent affordable housing requirement.

<sup>2</sup> A total of 654 very-low income rental units will be preserved and extended for 30 years and 15 acres of land will be dedicated to the City for affordable housing through a Development Agreement between the City of Irvine and The Irvine Company. It is estimated that 375 very low income units will be constructed on the 15 acres to be dedicated.

### **Status of Housing Opportunity Sites**

The Housing Element identifies sites available for housing and quantifies the number and type of residential units that can be constructed based on the following densities:

- ♦ Low – 5 du/gross acre
- ♦ Medium – 10 du/gross acre
- ♦ Medium-High – 25 du/gross acre
- ♦ High – 40 du/gross acre
- ♦ Multi-Use – 40 du/gross acre

Housing Element Table C-24 provides an inventory of available sites and the table below provides an update to that table for the RHNA period through October 2006.

**Table C-24**  
**Residential Development Potential (Units) on Vacant Land**

Density	PA 4	PA 10	PA 12	PA 17	PA 18	PA 27	Total
Low							0
Medium	3,766	1,283	523	1,680	200	975	8,427
Medium-High	2,450	146	776	350	550	1,180	5,797
High			500				500
Multi-Use			350				350
Total	6,216	1,429	2,149	2,030	750	2,155	15,074

Note: Planning Areas 17, 18, and 27 are hillside development areas, eligible to utilize the Menu Option to meet the affordable housing goal.

**RHNA Status Report-December 2006**  
**Residential Units Constructed 1/98 – 10/06**

Density:	2.1 Estate	2.2 Low	2.3 Medium	2.4 Medium High	2.5 High	4.7 ICUC	4.9 LPC	3.1 & 5.1 Multi Use	5.3 IBC Res.	6.1 Institut.	Total DU's
PA 4			5,370	2,319			138				7,827
PA 5*		291	484	612							1,387
PA 6*			8								8
PA 8*		1	389	96							486
PA 9*			1,977	320				5			2,302
PA 10		3	606								609
PA 11			21								21
PA 12		190		2,165	52			694			3,101
PA 14				41							41
PA 15*		19	9					291			319
PA 17			2,566								2,566
PA 20		19									19
PA 21		18									18
PA 22	199										199
PA 27			718	864							1,582
PA 33						401					401
PA 36									1,762		1,762
PA 38*			257	232							489
PA 50**										11,956	11,956
TOTAL*	199	541	12,405	6,649	52	1,386	138	990	1,762	11,956	35,093

\* Vacant sites analysis was prepared in September 1999, while RHNA began in January 1998. Planning Areas with asterisks no longer had vacant sites when the vacant sites analysis was performed, were annexed into the City, were re-zoned or were undeveloped.

\*\* PA 50 consists of dormitory units at UC Irvine.

### **Kennedy Commission**

Since 2000, the City of Irvine has worked with the Kennedy Commission to update the Housing Element and to develop inclusionary zoning. In addition, the Executive Director of the Kennedy Commission now sits on the City's newly established Irvine Community Land Trust (ICLT) board. The ICLT was created by the City to help it achieve its goal of ensuring that ten percent (10%) of the total housing stock will be permanently affordable. This will address production and preservation goals in the Housing Element and in the City's Housing Strategy & Implementation Plan.

### **Housing Strategy & Implementation Plan**

The City Council approved, on March 14, 2006, a Housing Strategy & Implementation Plan. The plan formalized a vision statement adopted by the City on September 27, 2005 that states "By the year 2025, the City of Irvine will have a population of 250,000 and will have a full spectrum of housing types to meet the shelter needs of all income groups and special needs populations in all stages of life. Total housing units will increase from 61,800 (2005) to 97,000 (2025) and the number of affordable units will increase from 5 percent currently (3,155) to 10 percent (9,700)." The implementation of the strategy will take into account the housing needs assessment as reflected in the City's updated Housing Element. Included in the implementation plan is the creation of the Irvine Community Land Trust, which will be the vehicle through which the City implements its affordable housing strategy. Attached to this update is a full copy of the text of the Housing Strategy & Implementation Plan (2).

#### **Attachments:**

1. Chapter 2-3 of City Zoning Ordinance
2. Housing Strategy & Implementation Plan

## CHAPTER 2-3. AFFORDABLE HOUSING IMPLEMENTATION PROCEDURE\*

**\*Editor's note:** Ord. No. 04-15, adopted December 14, 2004, amended the Code by repealing former ch. 2-3, §§ 2-3-1--2-3-8, and adding a new ch. 2-3. Former ch. 2-3 pertained to similar subject matter, and derived from Ord. No. 03-09, adopted April 8, 2003.

Sec. 2-3-1. Intent.

Sec. 2-3-2. Applicability.

Sec. 2-3-3. Submittal requirements.

Sec. 2-3-4. Affordable housing requirements defined.

Sec. 2-3-5. Provision of affordable units; menu option.

Sec. 2-3-6. Affordable housing credits guidelines.

Sec. 2-3-7. Role of financial and processing incentives.

Sec. 2-3-8. Monitoring.

Sec. 2-3-9. Affordable housing plan requirements for planning areas.

Sec. 2-3-10. Residential density bonus standards.

### Sec. 2-3-1. Intent.

The affordable housing implementation procedure is a means for fulfilling the affordable housing requirements for certain developments or planning areas, as set forth in the General Plan Housing Element (hereinafter the "Housing Element"). The implementation procedure describes the requirements for submitting the affordable housing plan to the City and to ensure that General Plan requirements are met. Except as otherwise provided in the Housing Element, nothing herein is intended, nor does it place any obligation on the City to provide financial incentives or offset the cost of providing affordable housing.

(Ord. No. 04-15, § 3, 12-14-04)

### Sec. 2-3-2. Applicability.

The provisions of this Chapter shall be applicable to all residential development proposals, regardless of zoning, within the City of Irvine. However, unless stated otherwise in this Chapter, the terms "applicant," "application," "project," and "development" relate only to residential developments of fifty or more units.

Projects with less than fifty units may utilize one of the menu options listed in Section 2-3-5.B.3, in-lieu of providing affordable units.

(Ord. No. 04-15, § 3, 12-14-04)

### Sec. 2-3-3. Submittal requirements.

A. An applicant whose proposal is subject to meeting affordable housing requirements shall submit an affordable housing plan to the Community Development Department as follows:

1. Affordable housing plans for an entire planning area(s) shall be submitted in conjunction with the first residential map. No application subject to this section shall be deemed complete without submittal of an affordable housing plan. The plan shall be reviewed and approved by the Planning Commission as part of the entitlement process

for a proposed project.

2. Other residential projects shall submit an affordable housing plan in conjunction with an application for a general plan amendment or zone change, or with the conditional use application if no general plan amendment or zone change is proposed. No application subject to this section shall be deemed complete without submittal of an affordable housing plan. The plan shall be reviewed and approved by the Planning Commission as part of the entitlement process for a proposed project.

B. The plan shall include the following components:

1. A description of the affordable housing units to be provided, including type of occupancy, unit mix, income level served by the affordable housing units, and location of the units.

2. A description of how the affordability of the units will be maintained for the period required by law. The minimum period of affordability for a newly constructed or converted affordable unit is 30 years. The minimum period of affordability for the extension of affordability of an existing affordable unit is 40 years.

3. Whether or not affordable credits are being requested. Guidelines for the Affordable Credits Program are included in Section 2-3-6 of this Chapter.

C. In conjunction with the submittal of an affordable housing plan, the applicant shall submit a written request to the City for any specific financial and/or processing incentives requested as a subsidy for the provision of affordable units. Financial and/or processing incentives that the City may provide include, but are not limited to, U.S. Department of Housing and Urban Development (HUD) funds, in-lieu fee proceeds, and the waiver of processing fees.

1. If the applicant is seeking financial, processing or other assistance from the City of Irvine or the Irvine Redevelopment Agency, as such assistance is defined in the Housing Element, the following additional information shall be provided:

a. The type and level of financial, processing and/or other assistance being requested.

b. An explanation of why the assistance is being requested.

c. A justification for the type and level of assistance being requested. Such justification shall be in a format acceptable to the City to allow it to determine the validity of the justification.

d. A list of any and all other non-City or non-Redevelopment Agency sources for assistance the applicant has received or applied for in conjunction with the project.

e. A list of any and all other non-City or non-Redevelopment Agency sources for assistance the applicant has reviewed and a detailed explanation of why each of the other sources is not being used.

D. The applicant shall make a good faith effort to obtain funding sources to achieve the affordable housing goal. In the event the proposed funding sources are not available or funding is limited for the development within the planning area, satisfaction of the affordable housing goal shall be achieved through selection of alternatives in the Menu Option defined in Section 2-3-5 B 2.

E. The City will participate, when possible, in financial partnerships with developers of affordable housing projects as a means of assisting the applicant's endeavor to secure subsidies and financing for the development of Income I, II and III rental or ownership housing. An applicant receiving financial incentives for affordable housing development projects shall be required to comply with the program monitoring guidelines as defined in Section 2-3-6.

(Ord. No. 04-15, § 3, 12-14-04)

### **Sec. 2-3-4. Affordable housing requirements defined.**

Residential projects shall provide a minimum of 15 percent of their total units as affordable units, as defined in the Housing Element and herein, unless otherwise required by this Chapter. The 15 percent affordable units shall be allocated in accordance with the following percentages:

A. *Income Levels I and II, as defined in the Housing Element.* Five percent of the actual number of dwelling units shall be affordable as rental or ownership units to households earning less than 50 percent of the County median income as annually defined by the California State Department of Housing and Community Development (Incomes I and II as defined in the Housing Element).

1. To the degree ownership units are provided to Income II households, a 2:1 credit will be attributed toward the achievement of the Income II goal.
2. To the degree Income I units are provided, a 1.6:1 credit is available. However, the number of Income I units in a specific project is subject to approval by the City.
3. To the degree three-bedroom Income I or II units are provided, a 1.4:1 credit will be attributed toward the achievement of the Income II goal.
4. To the degree four-bedroom Income I or II units are provided, a 1.6:1 credit will be attributed toward the achievement of the Income II goal.

B. *Income Level III, as defined in the Housing Element.* Five percent of the actual number of dwelling units shall be affordable as either rental or ownership units, with the emphasis on ownership units, to households earning 51 percent to 80 percent of the County median income as annually defined by the California State Department of Housing and Community Development. (Income III as defined in the Housing Element).

1. To the degree ownership units are provided to Income III households, a 2:1 credit will be attributed toward achievement of the Income III goal.
2. To the extent that the affordable units referenced under Section 2-3-4 A, above, are provided with the use of financial and processing incentives in excess of the five percent goal, a 2:1 credit will also be attributed toward the achievement of this goal.
3. To the degree three-bedroom Income III units are provided, a 1.4:1 credit will be attributed toward the achievement of the Income III goal.
4. To the degree four-bedroom Income III units are provided, a 1.6:1 credit will be attributed toward the achievement of the Income III goal.

C. *Combined Income Levels I, II, and III, as defined in the Housing Element (Alternative to meeting Sections 2-3-4 A and B, above).* In order to allow projects to compete for County affordable housing funds and because this approach provides a greater overall level of affordability, the City will regard the following as meeting the combined affordability goals for Incomes I, II, and III, as set forth in Sections 2-3-4 A and 2-3-4 B of this Chapter:

1. Projects which provide a minimum of 10 percent of the proposed units affordable to households earning 60 percent or less of the County median income as annually defined California State Department of Housing and Community Development.

2. The Planning Commission shall have, on a case-by-case basis, the discretion to consider and approve ratios other than the currently required 5 percent ratios if the Commission determines that a proposal will provide equivalent or enhanced affordability.

D. *Income Level IV, as defined in the Housing Element.* Five percent of the total number of dwelling units shall be affordable as rental or ownership units, with emphasis on ownership units in projects offering ownership housing, to households earning 81 percent to 120 percent of the County median income as annually defined by the California State Department of Housing and Community Development. (Income IV as defined in the Housing Element).

(Ord. No. 04-15, § 3, 12-14-04)

## **Sec. 2-3-5. Provision of affordable units; menu option.**

### *A. Location of affordable units.*

1. Unless an applicant is qualified to utilize the Menu Option listed under Section 2-3-5 B, affordable units must be located within the planning area or on the site of the proposed project. Any affordable units to be developed outside of the planning area shall be proposed and identified as part of the affordable housing plan submitted for the overall development proposal. Provision of units outside of the subject planning area shall count toward the affordable housing goals of the subject planning area, not the planning area receiving the units.

2. The affordable housing units shall be distributed to prevent a concentration of lower income households in a neighborhood that already has a disproportionately high number of lower income households. This prohibition also applies to any excessive concentration of housing provided for a single Income Level (e.g., an over-concentration of Income Level I housing in a neighborhood). However, in order to expand the applicant's opportunities to obtain financial assistance for the provision of affordable housing, a project with up to 100 percent affordability will be considered, and may be approved, by the City. A project application offering to provide affordable housing excess of the requirements set forth in this Chapter, or the Housing Element, may only be denied in accordance with the terms of Government Code Section 65589.5(d).

### *B. Menu option alternatives.*

1. *Intent of menu option.* The menu option is an alternative to the on-site affordable housing requirements set forth in Sections 2-3-4 and 2-3-5 A(1) of this Chapter. The menu option is designed to provide to the City affordable housing benefits that are equal in value to the actual provision of on-site units in the quantity and quality that would otherwise be provided. Equivalent values will be determined by taking into account an applicant's ability to reasonably secure financial incentives (leveraging) for the development of affordable units.

2. *Applicability of the menu option.* An applicant may only use the menu option if the fulfillment of its affordable housing obligations under this Chapter are otherwise infeasible. The City will consider the fulfillment of affordable housing requirements set forth in Sections 2-3-4 and 2-3-5 A 1 of this Chapter to be "infeasible" under the following circumstances:

- a. The applicant proposes development in the hillside Planning Areas 1, 2, 6, 17, 18, 22, or 27 where development of affordable housing is impacted by the increased cost of development in hillside areas; or
- b. The applicant proposes a zone change and/or general plan amendment to

change the land use designation from high, medium, or medium-high residential density to low or estate density which would bring the percentage of residential land in the planning area designated for low or estate density to 75 percent or more; or

c. The planning area meets all the following criteria:

- (1) The planning area is predominately (over 75 percent of the entitlement) developed.
- (2) The planning area does not have a City-approved affordable housing program.
- (3) The undeveloped residential areas have a zoning designation of estate, low, and/or medium density; or

d. Financial or processing incentives are not available to bridge the gap of developing affordable housing within the planning area. In order to determine whether or not financial and/or processing incentives are available to bridge the gap of developing affordable housing within the project area, the applicant shall submit the following items to the Director of Community Development, who will subsequently provide a written determination regarding the project's ability to utilize the menu option:

- (1) A list of any and all other non-City or non-Redevelopment Agency sources for assistance the applicant has reviewed and a detailed explanation of why each of the other sources is not being used.

3. *Menu options.* Applicants who qualify to choose a Menu Option may choose from one of the following "equivalent value" options:

- a. Convert existing market rate housing to affordable housing for a period of at least 30 years.
- b. Extend the term of affordability for affordable units for a period of at least 40 years.
- c. Payment of in-lieu fees.
- d. Transfer control of units to a nonprofit housing agency.
- e. Transfer of off-site credits for affordable units not provided on the site.
- f. Provision of alternative housing.
- g. Dedication of land for affordable housing.
- h. An alternative option acceptable to the City.

An applicant may use one or more options to satisfy the affordable housing requirement.

4. *Annual study.* To ensure comparable equivalent value of selected menu options in exchange for not providing units within the planning area, the City shall conduct an annual reevaluation of the variables used in the in-lieu fee matrix.

5. *Implementation of menu options.* Should the menu option be utilized in achieving the affordability goal, the following criteria shall be utilized to implement each option as respectively listed in Section 2-3-5 B 3:

- a. Convert market rate housing to affordable housing: The purchase cost of owner occupied or the rent for rental units shall be reduced to provide the same number of units at the same income levels as outlined in Section 2-3-4 for a period of at least 30 years.

b. Extend the term of affordability of existing program affordable units: For bond units or other program affordable units whose affordability will expire within five years of the approval of the affordable housing plan, the existing level of affordability for the designated income households shall be extended for a period of at least 40 years from the existing expiration date for an equivalent or greater number of units than required in Section 2-3-4.

c. Payment of in-lieu fees: The applicant may pay an in-lieu fee, based on the total number of units being developed, as determined by City Council resolution and based on the in-lieu fee formula. The in-lieu fee shall be determined at the time building permits are issued for development of a project. Menu Option items are designed to generate a value in furtherance of affordable housing that is equivalent or comparable to the actual value of providing such housing in the planning area as defined in Section 2-3-5 B 1.

Fees collected under the in-lieu fee program will be placed in the City's Fees and Exactions Fund and will be used to fund projects implementing the City's Housing Element Needs Assessment and/or serving households earning 80 percent or less of the Area Median Income (AMI), as annually defined by the California State Department of Housing and Community Development.

d. Transfer control of units to a nonprofit housing agency: Dedicate developer-owned units to nonprofit organizations in the same ratio and at the same Income Levels as required in Section 2-3-4.

e. Transfer of credits for affordable units provided elsewhere in the City: If an applicant has provided affordable housing above the required number of units, the excess units can be used as credit for satisfaction of affordable housing requirements off-site or can be sold to developers who do not provide sufficient affordable units on-site, subject to the Affordable Housing Credits Program guidelines outlined in Section 2-3-6 of this chapter.

f. Provision of alternative housing: The applicant may propose to provide alternative housing, such as special needs housing, single room occupancy hotels, or resident shelters. The number of units, rooms, or beds provided in alternative housing shall be credited on a one-to-one ratio to the total number of units required for the affordable housing needs goal. The same ratio may be applied to alternative housing provided within the planning area. To the degree Income 1 units are provided, a 1.6:1 credit is available. Menu Option items are designed to generate a value in furtherance of affordable housing that is equivalent or comparable to the actual value of providing such housing in the planning area as defined in Section 2-3-5 B 1.

g. Dedication of land for affordable housing: Transfer control of land to the City, Redevelopment Agency, or a City-approved non-profit agency to be used for affordable housing projects. The value of land dedication will be the same as the value of the number of affordable units with income levels as defined in Section 2-3-4 that are not provided in the proposed project. The value shall be calculated based on a City-approved appraisal of the land and the Gap Study. Menu Option items are designed to generate a value in furtherance of affordable housing that is equivalent or comparable to the actual value of providing such housing in the planning area as defined in Section 2-3-5 B 1.

h. Other programs. Alternative programs which provide affordable housing in a manner not specifically described above may be considered by the City provided the requirement of Section 2-3-4 is met either through the provision of units or through the value of the alternative. Multiple credits may be allowed if such programs provide affordable housing in excess of the goals either in terms of the

degree of affordability, in the amount of affordable units or both. Such programs may be approved at the discretion of the City as specified in an affordable housing implementation program. Menu Option items are designed to generate a value in furtherance of affordable housing that is equivalent or comparable to the actual value of providing such housing in the planning area as defined in Section 2-3-5 B 1.

(Ord. No. 04-15, § 3, 12-14-04)

### **Sec. 2-3-6. Affordable housing credits guidelines.**

A. *Introduction.* The purpose of the Affordable Credits ("Credits") Program is to promote the construction of affordable housing units within the City by establishing a system of Credits that can be earned by developers of residential projects which include higher percentages of affordable units than are currently required by the City's Inclusionary Housing Program and in turn sold or transferred to developers of other residential projects.

Separate Credit Programs are established for the three categories of affordable homes (Income Levels I/II, III and IV), so that a project can fulfill its affordable requirements on-site at one income level, while using Credits to cover its requirement at another income level. The City will maintain a database to keep track of existing Credits so that developers of market-rate projects can be informed of the availability of such Credits.

B. *Defined terms.* The following defined terms are utilized in these guidelines:

*Affordable housing credits agreement* means an agreement required for any residential development project that is involved in the purchase or sale of credits.

*Affordable housing in-lieu fees* means fees payable by a developer of a market-rate project or a mixed project with affordable shortfalls, in lieu of the actual construction of affordable units on the project site.

*Affordable project* means a residential project that includes only affordable units.

*Affordable unit* means a residential dwelling unit that is affordable to and rented or sold to a household with an income of below 120 percent of the County of Orange Median Income. An affordable unit may be designated as falling into one of four income categories (Income Levels I--IV), based on the highest household income that is qualified to purchase or rent that unit.

*Agreement* means an affordable housing credits agreement.

*City* means the City of Irvine.

*County median income* means the current median income in Orange County as determined by the U.S. Department of Housing and Urban Development.

*Credits* means affordable housing credits.

*Excess affordable units* means the number of affordable units in a residential project that fall within a given income level category that exceed the required affordable component for that income level.

*Income level I* means a household income of not more than 30 percent of the county median income, as adjusted for household size.

*Income level II* means a household income of over 30 percent but not more than 50 percent of the county median income, as adjusted for household size.

*Income level III* means a household income of over 50 percent but not more than 80 percent of the county median income, as adjusted for household size.

*Income level IV* means a household income of over 80 percent but not more than 120 percent of the county median income, as adjusted for household size.

*In-lieu fees* means affordable housing in-lieu fees.

*Market-rate project* means a residential project that only includes market-rate units.

*Market-rate units* means residential dwelling units that are not affordable units.

*Mixed project* means a residential project that includes both affordable units and market-rate units.

*Mixed project with excess affordables* means a mixed project in which there are excess affordable units at one or more income levels. (Please note that it is possible that a mixed project with excess affordables for one income level category may have a shortage of affordable units at other income level categories).

*Mixed project with affordable shortfall* means a mixed project in which there is a shortage of affordable units at one or more income levels. (please note that it is possible that a mixed project with affordable shortfall at one income level category may have sufficient affordable units or excess affordable units at other income level categories).

*Program* means the City of Irvine Affordable Housing Credits Program.

*Required affordable component* means, for any residential project within the City, the percentages of dwelling units that are required to be affordable to households in each of the three income level categories listed below:

Income levels I and II: Five percent of project

Income level III: Five percent of project

Income level IV: Five percent of project

C. *Guidelines.* The program shall be administered by the City according to the following guidelines:

1. An agreement must be executed prior to the issuance of building permits for those units in a market-rate project or mixed project with affordable shortfall that will be satisfying their required affordable component through the use of credits. The purchaser of credits, the seller of credits and the City shall all be signatories to the agreement. The agreement shall state the number of credits involved, and must identify the specific residential projects that will be generating the credits and will be receiving the credits. Information on the purchase price or payment arrangements for the credits shall not be required to be disclosed within the agreement.
2. Affordable credits generated by excess affordable units shall become available for use by a market-rate project or mixed project after:
  - a. Building permits for the excess affordable units have been issued, and
  - b. The developer of the affordable project or mixed project with excess affordables has posted a bond to assure the construction of the excess affordable units or a certificate of occupancy has been issued for the excess affordable units.
3. Separate affordable credits shall be issued for excess affordable units in each of the three income level categories (i.e., income levels I/II, III and IV).
4. Affordable projects and mixed projects that agree to satisfy the required affordable component for one or more income level categories on-site shall not be required to pay in-lieu fees or provide affordable credits for the income level categories anticipated to be provided on-site. Said agreement will be enforced through a condition of the

discretionary approval of the project.

5. Until credits become available, even after the agreement is executed, the developer of any residential project that is not providing its required affordable component for a given income level category on-site must pay in-lieu fees at the time of building permit issuance for any market-rate units or affordable units not yet covered by credits for that income level category. These in-lieu fees shall be reimbursed to the developer of the market-rate project and/or the mixed project, without interest, upon availability of the credits listed in the agreement (see guideline #2).

6. One credit for any income level category shall release 19 dwelling units in a market-rate project or a mixed project with affordable shortfall from their required affordable component for that same income level category.

7. The following guidelines for granting credits and combining credits for affordable units are summarized in table 1 below:

a. Units that are priced for, sold to and occupied by households in income level categories I, II and III shall receive 2.0 credits in the corresponding income category.

b. 1.6 income level I/II credits shall be granted for each rental excess affordable unit that satisfies the income level I category requirement.

c. 3.2 income level I/II credits shall be granted for excess affordable units that satisfy income level I category requirements and are priced for, sold to and occupied by households in the income level I category.

d. 1.4 income level II and III credits shall be granted in the corresponding income level category for rental excess affordable units that include three bedrooms, and 1.6 income level II and III credits shall be granted in the corresponding income level category for rental excess affordable units that include four bedrooms.

e. 2.24 income level I/II credits shall be granted for rental excess affordable units in the income level I category that include three bedrooms, and 2.56 income level I/II credits shall be granted for rental excess affordable units in the income level I category that include four bedrooms.

f. 2.8 income level II and III credits shall be granted for excess affordable units in the corresponding income level categories that include three bedrooms and are priced for, sold to and occupied by households in the corresponding income level category.

g. 3.2 income level II and III credits shall be granted for excess affordable units in the corresponding income level categories that include four bedrooms and are priced for, sold to and occupied by households in the corresponding income level category.

h. 4.48 income level I/II credits shall be granted for excess affordable units in the income level I category that include three bedrooms and are priced for, sold to and occupied by households in the income level I category.

i. 5.12 income level I/II credits shall be granted for excess affordable units in income category I that include four bedrooms and are priced for, sold to and occupied by households in the income level I category.

8. All developers of market-rate projects or mixed projects with affordable shortfalls utilizing the program shall pay for their share of the administration costs related to the application of credits to their project through hourly fees charged by the City. Any administrative costs not covered by the hourly fees shall be paid to the City by the

developer of the market-rate project or mixed project with affordable shortfall prior to the acceptance of the credits for the specific project by the City.

9. Credits shall be assigned to developers of affordable projects or mixed projects with excess affordables, based on the guidelines listed above, for:

- a. The conversion of existing market-rate units to affordable units for a period of at least 30 years,
- b. The extension of the term of affordability of existing affordable units by an additional 40 years, and
- c. The construction of second units that meet the City's affordability guidelines.

Credits may be assigned to property owners and developers in return for the dedication of land for affordable housing use and the construction of special needs housing, with the number of credits assigned based on the City's determination of the value of these types of assistance.

10. Affordable projects or mixed projects with excess affordable that have received affordable housing in-lieu fees from the City shall have their credits reduced based on the proportion of their affordable units that have been fully or partially assisted with the affordable housing in-lieu fees. The director shall make all determinations regarding the number of affordable units assisted in this manner.

11. A database shall be prepared and maintained by the City to keep track of the use and availability of affordable credits within the City. A list of uncommitted excess affordable credits shall also be kept on file by the City to be made available to developers of market-rate projects and mixed projects with affordable shortfalls who are interested in purchasing credits.

(Ord. No. 04-15, § 3, 12-14-04)

### **Sec. 2-3-7. Role of financial and processing incentives.**

Pursuant to the Housing Element, the purpose of financial and processing incentives is to bridge the gap between the actual cost of construction of a market rate unit and the value of an affordable unit. If financial incentives are not available for on-site construction of affordable units, satisfaction of the affordable housing goal shall be achieved through the selection of alternatives in the menu options outlined in this section. Nothing herein is intended nor does it place any obligation on the City to provide financial incentives or offset the cost of providing affordable housing as required by the Housing Element.

A. *Financial incentives defined.* Financial incentives mean monetary assistance to the project for the purpose of subsidizing the cost of providing affordable units. The City, the Redevelopment Agency or another public, private or nonprofit source may provide financial assistance.

B. *Processing incentives defined.* Processing incentives are any changes to existing land use policies which will increase the applicant's ability to provide affordable housing, such as modifications for setbacks or building height, fee waivers, and density bonuses granted according to Government Code regulations.

(Ord. No. 04-15, § 3, 12-14-04)

### **Sec. 2-3-8. Monitoring.**

The applicant of an affordable housing development project shall comply with the program

monitoring guidelines set forth herein.

- A. The applicant or developer shall provide the City with an annual report detailing compliance with the adopted affordable housing plan for the project.
- B. Failure to comply with the terms of the adopted affordable housing plan may result in the revocation of a conditional use permit for the project or similar exercises of the City's enforcement powers.

(Ord. No. 04-15, § 3, 12-14-04)

### **Sec. 2-3-9. Affordable housing plan requirements for planning areas.**

When a project entails the development of an entire planning area, the applicant shall designate the sites on which affordable housing units shall be developed. The designation of affordable housing sites shall be made in conjunction with the submittal of the first subdivision map for the planning area. The applicant may submit a site plan or a letter indicating the sites designated for affordable housing.

- A. The affordable housing sites shall be distributed to prevent undue concentration of affordable housing in any one area.
- B. In order to expand the applicant's opportunities to obtain financial assistance for the provision of affordable housing, a project with up to 100 percent affordability will be considered, and may be approved, by the City. A project application offering to provide affordable housing in excess of the requirements set forth in this Chapter, or the Housing Element, may only be denied in accordance with the terms of Government Code Section 65589.5(d).

The owner(s) of any of the parcels indicated as a site for affordable housing shall be required to inform any potential purchaser/developer that this site is to be used to fulfill the City's affordable housing requirements.

(Ord. No. 04-15, § 3, 12-14-04)

### **Sec. 2-3-10. Residential density bonus standards.**

*A. Purpose and intent/definitions.* The density bonus standards are intended to provide incentives for the production of housing for very low income, lower income, or senior households in accordance with Sections 65915 and 65917 of the California Government Code. Accordingly, the city hereby incorporates all applicable provisions of Government Code Sections 65915 and 65915.5, including those not specifically discussed in this section. In enacting this Section, it is the intent of the City of Irvine to facilitate the development of affordable housing and to implement the goals, objectives and policies of the City's Housing Element.

*Definitions.* Whenever the following terms are used in this Section, they shall have the following meanings:

*Additional incentives* means such regulatory concessions as specified in California Government Code Subsections 65915 (d) and (h) to include, but not be limited to, the reduction of site development standards or zoning code requirements, direct financial assistance, approval of mixed use zoning in conjunction with the housing development, or any other regulatory incentive which would result in identifiable cost avoidance or reductions that are offered in addition to a density bonus. See Subsection 2-3-10(D).

*Affordable rent* means monthly housing expenses, including a reasonable allowance for utilities, for rental target units reserved for very low or lower income households, not exceeding the following calculations:

(1) Very low income (income I and II): 50 percent of the area median income for Orange County, adjusted for household size, multiplied by 30 percent and divided by 12.

(2) Lower income (income III): 80 percent of the area median income for Orange County, adjusted for household size, multiplied by 30 percent and divided by 12.

*Affordable sales price* means a sales price at which very low or lower income households can qualify for the purchase of target units, calculated on the basis of underwriting standards of mortgage financing available for the development.

*Child care facility*, as used in this section, means a child day care facility other than a family day care home, including, but not limited to, infant centers, preschools, extended day care facilities, and school age child care centers.

*Density bonus* means a minimum density increase of at least 25 percent over the otherwise maximum residential density.

*Density bonus units* means those residential units granted pursuant to the provisions of this Section which exceed the otherwise maximum residential density for the development site.

*Equivalent financial incentive* means a monetary contribution, based upon a land cost per dwelling unit value, equal to one of the following:

(1) A density bonus and an additional incentive(s); or

(2) A density bonus, where an additional incentive(s) is not requested or is determined to be unnecessary. See Subsection 2-3-10(C).

*Housing cost* means the sum of actual or projected monthly payments for all of the following associated with for-sale target units: principal and interest on a mortgage loan, including any loan insurance fees, property taxes and assessments, fire and casualty insurance, property maintenance and repairs, homeowner association fees, and a reasonable allowance for utilities.

*Housing development* means construction projects consisting of five or more residential units, including single-family, multifamily, and mobile homes for sale or rent, pursuant to this Section.

*Lower income household* means households whose income does not exceed the lower income limits applicable to Orange County, as published and periodically updated by the State Department of Housing and Community Development pursuant to Section 50079.5 of the California Health and Safety Code.

*Market-rate unit* means all units within a housing development excluding the target units.

*Maximum residential density* means the maximum number of residential units permitted by the City General Plan Land Use Element and Zoning Ordinance at the time of application, excluding the provisions of this Section.

*Qualifying resident* means senior citizens or other persons eligible to reside in Senior Citizen Housing.

*Senior citizen housing* means a housing development consistent with the California Fair Employment and Housing Act (Government Code Section 12900 et seq., including 12955.9 in particular), which has been "designed to meet the physical and social needs of senior citizens," and which otherwise qualifies as "housing for older persons" as that phrase is used in the federal Fair Housing Amendments Act of 1988 (P.L. 100-430) and implementing regulations (24 CFR, part 100, subpart E), and as that phrase is used in California Civil Code Section 51.2 and 51.3.1.

*Target unit* means a dwelling unit within a housing development which will be reserved for sale or rent to, and affordable to, very low or lower income households, or qualifying residents.

*Very low income household* means households whose income does not exceed the very low income limits applicable to Orange County, as published and periodically updated by the State

Department of Housing and Community Development pursuant to Section 50105 of the California Health and Safety Code.

**B. Implementation.**

1. *Apartments and single-family dwellings.* The City shall grant either: a density bonus, or a density bonus with an additional incentive(s), or equivalent financial incentives as set forth in Subsection 2-3-10(D), to an applicant or developer of a housing development of five (5) or more residential units, who agrees to provide the following:

- a. At least 20 percent of the total units of the housing development as target units affordable to lower income households; or
- b. At least 10 percent of the total units of the housing development as target units affordable to very low income households; or
- c. At least 50 percent of the total of the housing development as senior citizen housing.

In determining the minimum number of density bonus units to be granted pursuant to this Section, the maximum residential density for the site shall be multiplied by 0.25. When calculating the number of permitted density bonus units, any fractions of units shall be rounded to the next larger integer.

In determining the number of target units to be provided pursuant to this Section, the maximum residential density shall be multiplied by 0.10 where very low income households are targeted, or by 0.20 where lower income households are targeted.

The density bonus units shall not be included when determining the total number of target units in the housing development. When calculating the required number of target units, any resulting decimal fraction shall be rounded to the next larger integer.

In cases where a density increase of less than 25 percent is requested, no reduction will be allowed in the number of target units required. In cases where a density increase of more than 25 percent is requested, the requested density increase, if granted, shall be considered an additional incentive, as outlined in Subsection 2-3-10(D).

In cases where the developer agrees to construct more than 20 percent of the total units for lower income households, or more than 10 percent of the total units for very low income households, the developer is entitled to only one density bonus and an additional incentive(s) (or an equivalent financial incentive) pursuant to subsection 2-3-10(D) of this Section. Similarly, a developer who agrees to construct senior citizen housing with 20 or 10 percent of the units reserved for lower income or very low income households, respectively, is only entitled to one density bonus and an additional incentive(s). The city may, however, grant multiple additional incentives to facilitate the inclusion of more target units than are required by this section.

2. *Condominiums.* The City shall grant either: a 10 percent density bonus, or a 10 percent density bonus with an additional incentive(s), or equivalent financial incentives as set forth in Subsection 2-3-10(D), to an applicant or developer of a housing development of five (5) or more residential units, who agrees to provide the following:

- a. At least 20 percent of the total units of the housing development as target units affordable to Moderate Income Households

3. *Residential development with child care facility.* When an applicant proposes to construct a housing development that conforms to the requirements of this Section and includes a child care facility that will be located on the premises of, as part of, or adjacent to, the project, the city, county, or city and county shall grant either of the following:

- a. An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the childcare facility; or
- b. An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the childcare facility.

c. *Development standards.* Target units should be constructed concurrently with non-restricted units unless both the City and the developer/applicant agree within the density bonus housing agreement, required pursuant to Subsection 2-3-6(F), to an alternative schedule for development.

Target units provided beyond a project's minimum required affordable housing requirement shall remain restricted and affordable to the designated group for a period of 30 years (or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program) under the following circumstances:

- (1) Both a density bonus and an additional incentive(s) is granted; or
- (2) An equivalent financial incentive equivalent to a density bonus and an additional incentive(s) is granted.

Target units provided beyond a project's minimum required affordable housing requirement shall remain restricted and affordable to the designated group for a period of 10 years under the following circumstances:

- (1) Only a density bonus is granted and no additional incentives are granted; or
- (2) An equivalent financial incentive equivalent to only a density bonus is granted.

Required affordable units shall remain restricted and affordable to the designated group for the term established in Subsection 2-3-3(B)(2).

In determining the maximum affordable rent or affordable sales price of target units the following household and unit size assumptions shall be used, unless the housing development is subject to different assumptions imposed by other governmental regulations:

TABLE INSET:

SRO (single room) unit	75% of 1 person
0 bedroom (studio)	1 person
1 bedroom	2 person
2 bedroom	4 person
3 bedroom	6 person
4 bedroom	8 person

Target units should be built on-site wherever possible and, when practical, be dispersed within the housing development. Where feasible, the number of bedrooms of the target units should be equivalent to the bedroom mix of the non-target units of the housing development; except that the developer may include a higher proportion of target units with more bedrooms. The design and appearance of the target units shall be compatible with the design of the total housing development. Housing developments shall comply with all applicable development standards, except those which may be modified as provided by this Subsection 2-3-10(D)

Circumstances may arise in which the public interest would be served by allowing some or all of the target units associated with one housing development to be produced and operated at an alternative development site. Where the developer and the city form such an agreement, the resulting linked developments shall be considered a single housing development for purposes of this section. Under

these circumstances, the developer shall be subject to the same requirements of this section for the target units to be provided on the alternative site.

A density bonus housing agreement shall be made a condition of the discretionary planning permits (e.g., tract maps, parcel maps, site plans, planned development or conditional use permits, etc.) for all housing developments pursuant to this Section. The agreement shall be recorded as a restriction on the parcel or parcels on which the target units will be constructed. The agreement shall be consistent with Subsection 2-3-10(G).

D. *Development incentives.* The City shall provide a density bonus and an additional incentive (s), for qualified housing developments, upon the written request of a developer, unless the City makes a written finding that the additional incentive(s) is not necessary to make the housing development economically feasible, and to accommodate a density bonus. The development incentives granted shall contribute significantly to the economic feasibility of providing the target units.

Applicants seeking a waiver or modification of development or zoning standards shall show that such waivers or modifications are necessary to make the housing development economically feasible in accordance with Government Code Section 65915(e). This requirement may be satisfied by reference to applicable sections of the City's General Plan Housing Element.

The need for, and availability of, incentives will vary for different housing developments. Therefore, the allocation of additional incentives shall be determined on a case-by-case basis. The additional incentives may include, but are not limited to, any of the following:

1. A reduction of site development standards or a modification of zoning ordinance requirements which exceed the minimum building standards provided in Part 2.5 (commencing with Section 18901) of Division 13 of the California Health and Safety Code. These may include, but are not limited to, one or more of the following:
  - (a) Reduced minimum lot sizes and/or dimensions.
  - (b) Reduced minimum lot setbacks.
  - (c) Reduced minimum outdoor and/or private outdoor living area.
  - (d) Increased maximum lot coverage.
  - (e) Increased maximum building height and/or stories.
  - (f) Reduced on site parking standards, including the number or size of spaces and garage requirements.
  - (g) Reduced minimum building separation requirements.
  - (h) Reduced street standards, e.g., reduced minimum street widths.
  - (i) Any other development standards modification deemed by the Director to be consistent with the intent of this Section and supported by written findings.
2. Other regulatory incentives or concessions proposed by the developer or the City which results in identifiable cost reductions or avoidance.
3. A density bonus of more than 25 percent.
4. Waived, reduced, or deferred planning, plan check, construction permit, and/or development impact fees (e.g., capital facilities, park, or traffic fees). Deferrals for the payment of development impact fees otherwise required by Government Code Section 66007 do not qualify as an incentive for purposes of this ordinance.
5. Direct financial aid (e.g., redevelopment set-aside, Community Development Block Grant and/or HOME funding, State housing funds) in the form of a loan or a grant to subsidize or provide low interest financing for onsite or offsite improvements, land or

construction costs.

The City may offer an equivalent financial incentive in lieu of granting a density bonus and an additional incentive(s). The value of the equivalent financial incentive shall equal at least the land cost per dwelling unit savings that would result from a density bonus and must contribute significantly to the economic feasibility of providing the target units pursuant to this Section.

E. *Application requirements and review.* An application pursuant to this Section shall be processed concurrently with any other application(s) required for the housing development. Final approval or disapproval of an application shall be made by the Planning Commission. The approval or disapproval of the proposed development may be subject to the provisions of Government Code Section 65589.5, which requires certain findings where the City proposes to:

1. Disapprove, or approve with conditions rendering the affordable housing development infeasible, or
2. Disapprove, or approve at a lesser density, a housing development proposal which complies with the applicable general plan, zoning, and development policies in effect at the time the project's application is deemed complete.

F. *Density bonus housing agreement.* Applicants/developers requesting a density bonus, shall (draft and) agree to enter into a density bonus housing agreement with the City. The terms of the draft agreement shall be reviewed and revised as appropriate by the Director of Community Development. Following execution of the agreement by all parties, the completed density bonus housing agreement, or memorandum thereof, shall be recorded and the resulting conditions filed and recorded on the parcel or parcels designated for the construction of Target Units.

The approval and recordation shall take place prior to final map approval, or, where a map is not being processed, prior to issuance of building permits for such parcels or units. The density bonus housing agreement shall be binding to all future owners and successors in interest.

The density bonus housing agreement shall include at least the following:

1. The total number of units approved for the housing development, including the number of target units.
2. A description of the household income group to be accommodated by the housing development, as outlined in Subsection 3-2-9(B), and the standards for determining the corresponding affordable rent or affordable sales price and housing cost.
3. The location, unit sizes (square feet) and number of bedrooms of target units.
4. Tenure of use restrictions for target units of at least 10 or 30 years, in accordance with Subsection 2-3-10(C).
5. A schedule for completion and occupancy of target units.
6. A description of the additional incentive(s) or equivalent financial incentives being provided by the City.
7. A description of remedies for breach of the agreement by either party (the City may identify tenants or qualified purchasers as third party beneficiaries under the agreement).
8. Other provisions to ensure implementation and compliance with this Section.

In the case of for-sale housing developments, the density bonus housing agreement shall provide for the following conditions governing the initial sale and use of target units during the applicable use restriction period:

1. Target units shall, upon initial sale, be sold to eligible very low or lower income households at an affordable sales price and housing cost, or to qualified residents (i.e., maintained as senior citizen housing) as defined by this Section.

2. Target units shall be initially owner-occupied by eligible very low or lower income households, or by qualified residents in the case of senior citizen housing.

3. The initial purchaser of each target unit shall execute an instrument or agreement approved by the City restricting the sale of the target unit in accordance with this ordinance during the applicable use restriction period. Such instrument or agreement shall be recorded against the parcel containing the target unit and shall contain such provisions as the City may require to ensure continued compliance with this ordinance and the state density bonus law.

In the case of rental housing developments, the density bonus housing agreement shall provide for the following conditions governing the use of target units during the use restriction period:

1. The rules and procedures for qualifying tenants, establishing affordable rent, filling vacancies, and maintaining target units for qualified tenants;

2. Provisions requiring owners to verify tenant incomes and maintain books and records to demonstrate compliance with this Section.

3. Provisions requiring owners to submit an annual report to the City, which includes the name, address, and income of each person occupying target units, and which identifies the bedroom size and monthly rent or cost of each target unit.

In the case of housing developments that utilize the density bonus provisions associate with child care facilities (Section 2-3-9 (B)), the City shall require, as a condition of approving the housing development, that the following occur:

1. The child care facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable pursuant to the provisions of Section 2-3-10(C).

2. Of the children who attend the child care facility, the children of very low income households, lower income households, or families of moderate income shall be a percentage that is equal to or greater than the percentage of dwelling units that are required for very low income households, lower income households, or families of moderate income pursuant to the provisions of Section 2-3-10(B).

(Ord. No. 04-16, § 3, 12-14-04)